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**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

KATHERINE MARY KAUT, PT

1420 Victor Avenue, # A  
Redding, CA 96003

License No. PT 12064

Respondent.

Case No. 1D 2007 65461

**ACCUSATION**

Complainant alleges:

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer for the Physical Therapy Board of California.

**I.**

**LICENSE HISTORY**

2. On or about March 20, 1984, the Physical Therapy Board of California issued license No. PT 12064 to Katherine Mary Kaut (Respondent). The license will expire on September 30, 2009, unless renewed.

3. This Accusation is brought before the Physical Therapy Board of California under the authority of the following laws. All section references are to the Bus. & Prof. Code unless otherwise indicated.

1 II.

2 RELEVANT STATUTES

3 4. Physical Therapy is governed under the Physical Therapy Practice Act  
4 (Bus. & Prof. Code Section 2600 *et. seq.*). Section 2602.1 of the Bus. & Prof. Code provides as  
5 follows:

6 **§ 2602.1 Priority to protect the public**

7 Protection of the public shall be the highest priority for the  
8 Physical Therapy Board of California in exercising its licensing,  
9 regulatory, and disciplinary functions. Whenever the protection of  
the public is inconsistent with other interests sought to be  
promoted, the protection of the public shall be paramount.

10 5. Physical Therapy is defined under Bus. & Prof. Code Section 2620 as  
11 follows:

12 **§ 2620. Physical therapy defined and restricted**

13 Physical therapy means the art and science of physical or  
14 corrective rehabilitation or of physical or corrective treatment of  
any bodily or mental condition of any person by the use of the  
15 physical, chemical, and other properties of heat, light, water,  
electricity, sound, massage, and active, passive, and resistive  
16 exercise, and shall include physical therapy evaluation, treatment  
planning, instruction and consultative services. The use of  
17 roentgen rays and radioactive materials, for diagnostic and  
therapeutic purposes, and the use of electricity for surgical  
18 purposes, including cauterization, are not authorized under the  
term "physical therapy" as used in this chapter, and a license issued  
19 pursuant to this chapter does not authorize the diagnosis of disease.

20 6. Section 2660 of the Bus. & Prof. Code provides, in pertinent part, the  
21 following:

22 **§ 2660. Suspension, revocation or imposition of conditions  
23 upon any license, certificate or approval; grounds**

24 The board may, after the conduct of appropriate proceedings under  
the Administrative Practice Act, suspend for not more than 12  
25 months, or revoke, or impose probationary conditions upon any  
license, certificate, or approval issued under this chapter for  
unprofessional conduct that includes, but is not limited to, one or  
26 any combination of the following causes:

27 ...

28 ///

(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapy assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

...

(f) Habitual intemperance.

...

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.<sup>1</sup>

7. Section 2661 of the Bus. & Prof. Code provides as follows:

**§ 2661. Conviction defined; time of action by committee**

A plea or verdict or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

8. Section 2661.5 of the Bus. & Prof. Code provides for cost recovery for investigation and prosecution of the case. More specifically Bus. & Prof. Code Section 2661.5 states as follows:

**§ 2661.5. Assessment and payment of costs in disciplinary proceedings; licensee found guilty of unprofessional conduct; enforcement of order; denial of renewal or reimbursement; deposits**

(a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

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1. The Medical Practice Act, is found at Chapter 5 of Division 2 of the Bus. & Prof. Code, Section 2000 *et. seq.*

1 (b) The costs to be assessed shall be fixed by the administrative  
2 law judge and shall not in any event be increased by the board.  
3 When the board does not adopt a proposed decision and remands  
4 the case to an administrative law judge, the administrative law  
5 judge shall not increase the amount of the assessed costs specified  
6 in the proposed decision.

7 (c) When the payment directed in an order for payment of costs is  
8 not made by the licensee, the board may enforce the order of  
9 payment by bringing an action in any appropriate court. This right  
10 of enforcement shall be in addition to any other rights the board  
11 may have as to any licensee directed to pay costs.

12 (d) In any judicial action for the recovery of costs, proof of the  
13 board's decision shall be conclusive proof of the validity of the  
14 order of payment and the terms for payment.

15 (e) (1) Except as provided in paragraph (2), the board shall not  
16 renew or reinstate the license or approval of any person who has  
17 failed to pay all of the costs ordered under this section.

18 (2) Notwithstanding paragraph (1), the board may, in its  
19 discretion, conditionally renew or reinstate for a maximum of one  
20 year the license or approval of any person who demonstrates  
21 financial hardship and who enters into a formal agreement with the  
22 board to reimburse the board within that one year period for those  
23 unpaid costs.

24 (f) All costs recovered under this section shall be deposited in the  
25 Physical Therapy Fund as a reimbursement in either the fiscal year  
26 in which the costs are actually recovered or the previous fiscal  
27 year, as the board may direct.

28 9. Section 2234 of the Bus. & Prof. Code (Medical Practice Act) provides  
that the board "shall take action against any licensee who is charged with unprofessional  
conduct."

10. Section 2239 of the Bus. & Prof. Code (Medical Practice Act) states in  
relevant part the following:

**§ 2239. Misuse of controlled substances, dangerous drugs or  
alcohol; unprofessional conduct**

(a) The use . . . of alcoholic beverages, to the extent, or in such a  
manner as to be dangerous or injurious to the licensee, or to any  
other person or to the public, . . . constitutes unprofessional  
conduct.

(b) A plea of verdict of guilty or a conviction following a plea of  
nolo contendere is deemed a conviction within the meaning of this  
section. . .

1 III.

2 GENERAL BACKGROUND

3 11. In 2006, L.H.<sup>2</sup> rented property located in Brookings, Oregon, to S.E. On  
4 October 23, 2006, Respondent destroyed the private fence of L.H., who owned property next  
5 door to Respondent. On October 24, 2006, Respondent returned to the residence of L.H. and S.E.  
6 and destroyed S.E.'s personal property, and stole Harley, S.E.'s pet chicken. Due to Sheriff  
7 intervention, Harley was returned. Respondent admitted that she had been drinking alcohol at  
8 the time of the incident.

9 12. Due to Respondent's conduct on October 24, 2006, a secret indictment  
10 was filed against her in the case entitled, *The State of Oregon v. Katherine Mary Kaut*, Case No.  
11 07CR0011, alleging three counts: (1) burglary in the first degree; (2) criminal mischief in the first  
12 degree; and (3) theft in the third degree [due to taking Harley]. On June 13, 2007, Respondent  
13 was convicted of burglary in the first degree after her plea of guilty. Part of the criminal  
14 sentencing included the following: (1) 60 days jail time; (2) 3 years probation; (3) \$1,245.00 in  
15 restitution and \$187.00 in fines; and (4) completing an alcohol treatment program.

16 13. On March 10, 2007, Respondent had an altercation with her roommate,  
17 C.G., in Forest Falls, California. During the fight, Respondent threw items at the roommate,  
18 including an 8 pound fire extinguisher. C.G. tried to call 911 twice, however, Respondent took  
19 away the phones and broke the phone and the phone lines. The roommate attempted to escape in  
20 her car but Respondent blocked the driveway with her own car, so that C.G. fled on foot.  
21 Thereafter, Respondent rammed C.G.'s car with her own car.

22 14. Due to Respondent's aggressive conduct towards C.G., on March 17,  
23 2007, a felony complaint was filed against Respondent, entitled, *The People of The State of*  
24 *California v. Katherine Mary Kaut*, Case No. FSB700700, in the superior court of California,  
25 County of San Bernardino alleging two counts: (1) cutting a utility line [Penal Code § 591]; and

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27  
28 2. The names are abbreviated herein to protect confidentiality.

(2) vandalism over \$400 damage [Penal Code § 594(b)(1)]. Respondent admitted at the time of the incident she had been drinking alcohol.

15. March 21, 2007, in the case entitled, *The People of The State of California v. Katherine Mary Kaut*, Case No. FSB700700, Respondent pled guilty to Penal Code § 591 and § 594(b)(1), and the felonies were reduced to misdemeanors under Penal Code section 17(b). Respondent was placed on probation under various terms and conditions.

#### IV.

#### STATUTORY VIOLATION

#### FIRST CAUSE FOR DISCIPLINE

(Criminal Convictions)

[Bus. & Prof. Code § 2660(d)]

16. Paragraphs 11 through 15 are incorporated herein by reference. Respondent has subjected her license to discipline under Bus. & Prof. Code section 2660(d), for the following criminal convictions:

- a. Criminal conviction on June 13, 2007, for burglary in the first degree, in the case, *The State of Oregon v. Katherine Mary Kaut*, Case No. 07CR0011.
- b. Criminal conviction on March 21, 2007, for two misdemeanors: (1) cutting a utility line [Penal Code § 591]; and (2) vandalism over \$400 damage [Penal Code § 594(b)(1), in the case entitled, *The People of The State of California v. Katherine Mary Kaut*, Case No. FSB700700.

17. The convictions and the underlying conduct surrounding the convictions are substantially related to the qualifications, functions, and/or duties of a physical therapist as physical therapy deals with the “corrective rehabilitation or of physical or corrective treatment of any bodily or mental condition of any person.” (Bus. & Prof. Code § 2620.) Respondent’s conduct (e.g., destroying and burglarizing her neighbors’ property, taking the pet chicken Harley, vandalizing the roommate’s property, and physically harming the roommate) is contrary to the physical health and mental condition of others, which is clearly in the bailiwick of a physical therapist.

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1 SECOND CAUSE FOR DISCIPLINE  
2 (Unprofessional Conduct)  
[Bus. & Prof. Code § 2234, § 2660(i)]

3 18. Paragraphs 11 through 17 are incorporated herein by reference. Respondent  
4 has subjected her license to discipline under Bus. & Prof. Code § 2234 in that respondent  
5 engaged in unprofessional conduct. The unprofessional conduct includes, *inter alia*, destroying  
6 and burglarizing her neighbors' property, taking the pet chicken Harley, vandalizing the  
7 roommate's property, and physically harming the roommate. The criminal convictions set forth  
8 in the paragraphs 16 and 17 are also a form of unprofessional conduct and a violation under Bus.  
9 & Prof. Code § 2660 (i).

10 THIRD CAUSE FOR DISCIPLINE  
11 (Excessive Use of Alcohol)  
[Bus. & Prof. Code § 2239, § 2660 (i)]

12 19. Paragraphs 11 through 17 are incorporated herein by reference. Respondent  
13 is subject to discipline under Bus. & Prof. Code § 2239 in that, at the time of her arrest, cited  
14 above, she had used an alcoholic beverage to an extent or in such a manner as to be dangerous or  
15 injurious to herself, to another person, or to the public. More specifically, Respondent has  
16 admitted to the following:

- 17 a. At the time Respondent had the altercation with her  
18 roommate on March 10, 2007, and caused damage to her  
roommate's car, she had been drinking alcohol.
- 19 b. At the time Respondent committed burglary against her  
20 neighbors on October 24, 2006, she had been drinking  
alcohol.

21 The criminal convictions surrounding the alcohol use as set forth in paragraphs 16 17 are also a  
22 form of unprofessional conduct and a violation under Bus. & Prof. Code § 2660 (i).

23 **V.**

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
26 alleged, and that following the hearing, the Board issue a decision:

- 27 1. Revoking or suspending Physical Therapist Number PT 12064, issued to  
28 Katherine Mary Kaut, PT.

2. Ordering Katherine Mary Kaut, PT to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;

3. Taking such other and further action as deemed necessary and proper.

DATED: OCTOBER 16, 2008

**ORIGINAL SIGNED BY:**  
Steven K. Hartzell  
 Executive Officer  
 Physical Therapy Board of California  
 State of California  
 Complainant